

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, including as a joint case under 11 U.S.C. Sec. 302, and (b) the other spouse exempts property from property of the estate under the federal exemption provisions of 11 U.S.C. Sec. 522(b)(1).

Sec. 2. Section 344, page 88, Laws of 1869 as last amended by section 1, chapter 136, Laws of 1927 and RCW 6.16.080 are each amended to read as follows:

Nothing in this chapter shall be so construed as to prevent the mortgaging of personal property which might be claimed as exempt, or the enforcement of such mortgage, nor to prevent the waiver of the right of exemption by failure to claim the same prior to sale under execution, and nothing in this chapter shall be construed to exempt from attachment or execution the personal property of a nonresident of this state, or a person who has left or is about to leave the state with the intention to defraud his creditors, or one spouse in a bankruptcy proceeding where (1) bankruptcy is filed by both spouses within a six-month period, including as a joint case under 11 U.S.C. Sec. 302, and (2) the other spouse exempts property from property of the estate under the federal exemption provisions of 11 U.S.C. Sec. 522(b)(1).

Passed the House April 2, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 150

[House Bill No. 254]

AUTOMOBILE INSURANCE—UNDERINSURED COVERAGE

AN ACT Relating to casualty insurance; amending section 27, chapter 150, Laws of 1967 as amended by section 1, chapter 117, Laws of 1980 and RCW 48.22.030; adding a new section to chapter 48.18 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 27, chapter 150, Laws of 1967 as amended by section 1, chapter 117, Laws of 1980 and RCW 48.22.030 are each amended to read as follows:

(1) "Underinsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance, or use of which either no bodily injury or property damage liability bond or insurance policy applies at the time of an accident, or with respect to which the sum of the limits of liability under all bodily injury or property damage liability bonds and insurance policies applicable to a covered person after an accident is less than the applicable damages which the covered person is legally entitled to recover.

(2) No new policy or renewal of an existing policy insuring against loss resulting from liability imposed by law for bodily injury or death or property damage suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be issued with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of underinsured motor vehicles and hit-and-run motor vehicles because of bodily injury or death or property damage, resulting therefrom, except while operating or occupying a motorcycle or motor-driven cycle, and except while operating or occupying a motor vehicle owned or available for the regular use by the named insured or any family member, and which is not insured under the liability coverage of the policy: PROVIDED, HOWEVER, That the coverage for property damage need only be offered as an optional supplemental coverage with the issuance of the coverage for bodily injury or death.

(3) Coverage required under subsection (2) of this section shall be in the same amount as the insured's third party liability coverage unless the insured rejects all or part of the coverage as provided in subsection (4) of this section.

(4) The insured may reject underinsured coverage for either bodily injury or death or property damage and the requirements of subsections (2) and (3) of this section shall not apply. If the insured has rejected underinsured coverage, such coverage shall not be included in any supplemental or renewal policy unless the insured subsequently requests such coverage in writing.

(5) The limit of liability under the policy coverage may be defined as the maximum limits of liability for all damages resulting from any one accident regardless of the number of covered persons, claims made, or vehicles or premiums shown on the policy, or premiums paid, or vehicles involved in an accident.

(6) The policy may provide that if an injured person has other similar insurance available to him under other policies, the total limits of liability of all coverages shall not exceed the higher of the applicable limits of the respective coverages.

(7) (a) The policy may provide for a deductible of not more than three hundred dollars for payment for property damage when the damage is caused by a hit-and-run driver or a phantom vehicle.

(b) In all other cases of underinsured property damage coverage, the policy may provide for a deductible of not more than one hundred dollars.

(8) For the purposes of this chapter, a "phantom vehicle" shall mean a vehicle which causes bodily injury or property damage to an insured arising out of a motor vehicle accident which is caused by an automobile which has

no physical contact with the insured or the vehicle which the insured is occupying at the time of the accident,

(a) The facts of which accident can be corroborated by competent evidence other than the testimony of the insured or any person having an uninsured motorist claim resulting from the accident, and

(b) The insured or someone on his behalf shall have reported the accident to the appropriate law enforcement agency within seventy-two hours of the accident.

****NEW SECTION. Sec. 2. There is added to chapter 48.18 RCW a new section to read as follows:***

Any automobile insurance policy written or renewed after the effective date of this act, which provides comprehensive or collision coverage shall also provide coverage against loss resulting from liability in at least the minimum amounts set forth in RCW 46.29.090. The liability coverage is not required during any month in which the vehicle is not used upon the highways of this state.

****Sec. 2. was vetoed, see message at end of chapter.***

NEW SECTION. Sec. 3. This act shall take effect on September 1, 1981.

Passed the House April 23, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 14, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section of House Bill No. 254 entitled:

"AN ACT Relating to casualty insurance."

Section 2 of this bill would require that auto insurance policies providing comprehensive or collision coverage would also have to provide liability coverage.

Since this bill passed the legislature, information has come to light that calls into question the potential effectiveness of this bill in preventing driving by underinsured motorists and also raises the question of unintended economic impacts on both the auto industry and financial institutions. I feel that the most prudent course of action at this time would be to veto Section 2 so that the legislature can more thoroughly study this issue.

With the exception of Section 2, which I have vetoed, the remainder of House Bill No. 254 is approved."